WASHINGTON, DC— U.S. Congressman Peter DeFazio (D-Springfield) sent a letter today to President Bush urging him to file a case with the World Trade Organization (WTO) charging oil-producing countries with improperly restricting exports. DeFazio argued that restricting exports leads to artificially inflated oil prices.

"The OPEC cartel continues to restrict the supply of oil, in violation of WTO rules, artificially driving up the price of fuel. Meanwhile, America upholds its promise to abide by the harmful WTO rules, sacrificing American jobs and subjecting consumers to sky high oil prices," DeFazio said. "As a world power, we have leverage over OPEC members. Why should we continue to support the oil barons that colluded to raise the price of oil and in turn hike up prices at the pump?"

President Bush recently attempted to lower American gas prices by asking Saudi Arabia to increase fuel production. His request largely fell on deaf ears. DeFazio is now requesting that the President take legal action. Under Article XI of the WTO rules, member countries are prohibited from using anything other than, "duties, taxes or other charges," to limit imports or exports across their borders. Therefore, DeFazio argues that oil production quotas violate WTO rules. Of the 13 OPEC countries, nine are members of the WTO and 4 have observer status and have applied to join the WTO.

This isn't the first time DeFazio has requested that President Bush take action against the OPEC nations in the WTO. In 2001, DeFazio sent a letter to President Bush urging him to file a complaint against OPEC under WTO rules. President Bush did not take action on DeFazio's letter and the WTO violation by OPEC has not been challenged.

The text of the letter to President Bush is below:

June 16, 2008

The Honorable George W. BushPresidentThe White HouseWashington, DC 20500

Mr. President:

As you know, the world oil market is unstable and creating havoc with our economy. Many economists frame the problem as a supply and demand problem that will work itself out. Many blame the surging price on China’s increased appetite for oil, but I think the facts show a different picture.

Everyone agrees that world demand for oil has risen. But, I find it curious that the Organization of Petroleum Exporting Countries (OPEC) has deliberately refused to increase production. The Middle East’s six largest oil exporters -- Saudi Arabia, United Arab Emirates, Iran, Kuwait, Iraq and Qatar -- reduced their combined output by 544,000 barrels a day. But the net loss in exports was 862,000 barrels a day because these six OPEC nations have seen their domestic demand increase by 318,000 barrels a day. In fact, OPEC’s oil production peaked in 2005 and has declined since. The amount of crude oil exported by the world's top oil producers fell 2.5% last year despite a 57% increase in prices. The result of withholding supply has spiked the price of oil to over $130 a barrel.

The U.S. has few options to affect the price of oil. For example, last month, press accounts indicate that you -- for the second time this year -- asked the Saudis to increase their oil production. Unfortunately your efforts were unsuccessful. But there is another option. After the official meetings of the World Economic Forum on the Middle East in Sharm El Sheikh, Egypt, I spoke with the U.S Trade Representative Susan Schwab. I urged her to file a WTO complaint against OPEC for violating the General Elimination of Quantitative Restrictions, otherwise known as Article XI of the original General Agreement on Tariffs and Trade (GATT). I believe there is a strong legal basis for the U.S. to pursue this trade complaint. This article states:

"No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party."

In other words, it appears that colluding to set production levels would violate WTO rules, specifically Article XI. And this is precisely the purpose of OPEC.

The precise meaning of this provision is fleshed out in a 1988 GATT Panel Report on "Japan - Trade in Semi-conductors." The Panel noted:

"...this wording (in Article XI) was comprehensive: it applied to all measures instituted or maintained by a contracting party prohibiting or restricting the importation, exportation or sale for export of products other than measures that take the form of duties, taxes, or other charges...This wording indicated clearly that any measure instituted or maintained by a contracting party which restricted the exportation or sale for export of products was covered by this provision, irrespective of the legal status of the measure."

The 1988 GATT panel report clarifies that only duties, taxes or other charges are allowable, not pacts among countries to limit production of a product for export. The oil production quotas devised by OPEC clearly qualify as a "quantitative restriction" and I reiterate my request that the U.S. Trade Representatives be instructed to file a case at the WTO arguing this point.

Finally, I want to bring your attention to Article XX, which sets out a series of broad exceptions to Article XI. Article XX notes that none of the exceptions are valid if they are "applied in a manner which would constitute...a disguised restriction on international trade." Therefore, the broad exception in Article XX that allows restrictions for the "conservation of exhaustible natural resources" would not protect OPEC's market manipulation because OPEC is not restricting oil production due to conservation concerns or to preserve an exhaustible supply. Rather, OPEC is restricting supply solely in order to influence world oil prices which clearly qualifies as a "disguised restriction on international trade."

Of the 13 OPEC countries: 9 are members of the WTO (Angola, Ecuador, Indonesia, Kuwait, Nigeria, Qatar, Saudi Arabia, UAE, Venezuela); and 4 have observer status and have applied to the WTO (Algeria, Iran, Iraq, and Libya). Therefore, filing a case could have a widespread impact.

The United States government has filed a number of cases with the WTO on behalf of the U.S.

business community; it is past time to show a similar commitment to U.S. consumers and fuel-dependent industries that are being gouged by OPEC. Unfortunately, Ms. Schwab indicated that despite the recent failed effort to persuade Saudi Arabia to increase oil production the Administration was still reluctant to file such a complaint.

Your administration is already investigating the continued volatility in oil prices domestically. The Commodity Futures Trading Commission investigation includes crude oil trading, storage and transportation for the past six months with a focus on possible "futures market manipulation." If the administration is willing to investigate outrageous oil prices here at home, then your administration should also file a WTO complaint to remedy the OPEC cartel price distortions.

In light of your unsuccessful efforts to prod OPEC into more oil production, I ask that you order the U.S. Trade Representative to file a WTO complaint.

Thank you, in advance, for your prompt attention to this request.

Sincerely,

Peter DeFazio

Member of Congress